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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,709	10/02/2003	Gregg S. Schmidtk	200300049-1	9168

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EXAMINER

PUROL, SARAH L

ART UNIT	PAPER NUMBER
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3637

NOTIFICATION DATE	DELIVERY MODE
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04/29/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/677,709	Applicant(s) SCHMIDTK ET AL.	
	Examiner Sarah Purol	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Prosecution on the merits is hereby re-opened.

Claims 5 and 6 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis for "posts" as recited in line 2 of both claims 5 and 6. Regarding claim 11, the structure of the ramp engaging the frame is not enough to accomplish the retraction of the hanger. There is not enough structural explanation (means recited) to accomplish retraction (the function desired).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4 ,7,10 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenberg et al. 5993099.

Greenberg et al. teach an apparatus (capable of mounting an electronic device to a rack system -the electronic device is not claimed and therefore could be something as simple as a musical greeting card or a circuit card for a computer or a compact disc– kept within a file). The frame assembly includes two rails 60 and a plurality of retractable hangers 42-48 on opposite sides of the device 10. The hangers are retractable to fit the device into the frame engaging the two rails 60. The retractable hangers are shown extended in Figure 4 and retracted in Figure 5. The device is

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slidable on the plurality of hangers on at least a portion of at least two rails. Hangers 42,46 are opposite hangers 44,48 on opposite sides of device. The ramp portion of the hangers are best seen in Figure 4. Note hanger portions 58 and the ramp portion that engages the inner side of rails 60.

Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Fall et al. 6209979. Note electronic device 12, fitting within two rails 24 with channel 60, hangers 14, biasing release element 66.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5 and 6 (as best understood), 8 and 9,11,12,13 (as best understood from the claim language) rejected under 35 U.S.C. 103(a) as being unpatentable over Greenberg et al. in view of Fitzburgh 5967337. Fitzburgh teaches a frame having posts 18-21 for supporting rails 15,16,17 which in turn support hangers 60 which support

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electronic devices. To provide either Fitzburg with retractable hangers as taught by Greenberg et al. for the purpose of fitting differing sized devices or to support the devices and hangers of Greenberg on a frame with posts as taught by Fitzburg would have in either case been obvious for one having ordinary skill in the art at the time of the invention. Regarding the shape of the hangers, whether they are cylindrical or triangular or any other shape in cross section is considered to be a matter of choice. The Greenberg et al. device is rectangular in cross section; however, another shape is not seen to make any difference nor yield any unexpected or unobvious result and is considered largely a matter of choice in design. Note that Greenberg et al. shows a stop (element 76 engaging element 74). Note also that Fitzburg teaches a stop in the form of the intersection between elements 12 and 13 and elements 15,16,17.

The prior art made of record and not relied upon at this time is considered pertinent to applicant's disclosure and cited on the attached Notice of References Cited for applicant's consideration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Purol whose telephone number is 571-272-6834. The examiner can normally be reached on Tuesday -Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Sarah Purol/

Primary Examiner

AU 3637